



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

Reply to
Attention of:

CEMP-CR

28 APR 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Real Estate Policy Guidance Letter No. 22 – Acquisition Process for CONUS Leases to Support War and Certain Emergency, Contingency and Other Operations

1. References:

- a. AR 405-10, Acquisition of Real Property and Interests Therein, 14 May 1970
- b. Title 10, United States Code, Section 2662, Real Property Transactions: Reports to Congressional Committees
- c. Memorandum, DAIM-ZA, dated 8 February 2005, Subject: Real Property Leases to Secure Temporary Soldier Housing (enclosed).

2. The purpose of this memorandum is to provide guidance on the leasehold acquisition process and validation of requirements for leases in support of subject situations.

3. Recently, numerous CONUS troop housing leases have been entered into purportedly in support of contingency operations. Installations provided advance notification to their respective supporting USACE District of the need to acquire temporary housing, but the exact number of units required was not given until just before the units were needed. On the basis that the leases were in support of a "contingency operation" districts identified housing sites and in some instances entered into leases without having approval from the Deputy Assistant Secretary of the Army for Installations and Housing (DASA (I&H)). In addition, the Assistant Chief of Staff for Installation Management (ACSIM) and the HQ Installation Management Agency (IMA) did not validate the requirements for the leases, nor was sufficient evidence provided establishing that the action was being made as a result of a contingency operation. Consequently, the leasing actions were delayed pending the necessary approvals.

4. In order to expedite requirements validation from HQ IMA and the ACSIM and contingency related determination from DASA(I&H), you are directed to follow the procedure below effective immediately, including those transactions currently in process:

- a. When asked by an installation, districts will proceed to locate space and be poised to execute a lease upon receipt of DASA(I&H) approval.

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b. Simultaneously, the installation will submit its request, along with sufficient evidence establishing that the action is the result of a contingency operation for approval through IMA command channels to the ACSIM. When the ACSIM has validated the requirements and the contingency operation nexus, the proposed action will be forwarded to the DASA(I&H) for approval as a lease in support of contingency operations pursuant to reference 1.b above.

c. Upon approval, DASA(I&H) will notify HQUSACE, whereupon the District will be instructed to execute the lease.

d. Requests should be processed electronically in order that approvals may be provided as expeditiously as possible.

e. In the event the proposed action exceeds the Title 10 reporting threshold, the District will submit the necessary Acquisition Report within 30 days after entering into the lease, in accordance with Title 10, USC, section 2662, subsection (g). The Title 10 threshold is based on the annualized rental cost, irrespective of actual cost for the term of the lease.

5. Note that all CONUS leases in support of activities listed in Title 10, USC, section 2662, subsection (g), require prior DASA(I&H) approval, regardless of cost, as directed by enclosed DAIM-ZA memorandum. Subsection (g) consists of transactions made as a result of:

a. *A declaration of War.*

b. *A declaration of a national emergency by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.).* For example, the Presidential Proclamation, dated 14 September 2001, declaring a national emergency by reason of certain terrorist attacks.

c. *A declaration of an emergency or major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).*

d. *The use of the militia or the armed forces after a proclamation to disperse under section 334 of this title.* For example, Executive Order 13223, issued as a result of the 14 September 2001 Proclamation.

e. *A contingency operation.* Title 10, U.S.C., section 101, subsection (13), defines the term “contingency operation” as “a military operation that— (A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301 (a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.” Examples are Operations Enduring Freedom and Iraqi Freedom. The generic term “Global War on Terrorism” or “GWOT” is insufficient to identify the specific situation being supported.

6. Garrison and IMA implementing instructions for this policy will be published under separate cover by Office of Assistant Chief of Staff for Installation Management.

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7. Questions concerning the above may be directed to Ms. Sue Duncan, CEMP-CR, 202-761-4904.

FOR THE COMMANDER:



Enclosure

PATRICIA C. SIGUR
Acting Director of Real Estate
Directorate of Military Programs

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Leases to Support War and Certain Emergency, Contingency and Other Operations

CF (cont):

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CEMP-POD

CEMP-SPD

CEMP-SWD

CEMP-D

CECW-LRD

CECW-MVD

CECW-NWD

CECW-SAD

CECC-R

DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR INSTALLATIONS & HOUSING

ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT (DAIM-ZA)

INSTALLATION MANAGEMENT AGENCY (IMAH-CS)

FORCES COMMAND (AFCS)

US ARMY CRIMINAL INVESTIGATION COMMAND (CIPL-CS)

US ARMY MATERIEL COMMAND (AMCCS)

US ARMY MILITARY DISTRICT OF WASHINGTON

US ARMY PACIFIC (APCS)

US ARMY TRAINING AND DOCTRINE COMMAND (ATBO-CS)

US ARMY INTELLIGENCE AND SECURITY COMMAND (ISCS)

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DEPARTMENT OF THE ARMY
ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT
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WASHINGTON DC 20310-0600

DAIM-ZA

8 FEB 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Real Property Leases to Secure Temporary Soldier Housing

1. References.

- a. AR 405-10, Acquisition of Real Property and Interests Therein, 14 May 1970.
- b. 10 U.S.C 2662, Real Property Transactions: Reports to Congressional Committees.

2. Recently there has been some confusion regarding the process to lease temporary Soldier housing. Even when the "contingency operation" exception (10 U.S.C. 2662(g)((1)(E)) is relied upon to expedite the leasing process, the Congressional notification must still be accomplished within 30 days after entering into the lease. The purpose of this memorandum is to reiterate and clarify the lease process and the associated Congressional reporting requirements.

3. Real Property lease agreements in excess of \$750,000 "annualized" rent, irrespective of the term of the lease, require advance Congressional notification. Installations in coordination with the supported MACOM must identify requirements and have the Installation Management Agency validate. The U.S. Army Corps of Engineers (USACE), the Army's Executive Agent for Real Estate, will prepare the lease action and submit the request for Congressional notification to the Deputy Assistant Secretary for Installations and Housing (DASA(I&H)). A 30-day waiting period begins upon DASA(I&H)'s submission of the notification to the Senate Committee on Armed Services and the House of Representatives Committee on Armed Services. Even then, by longstanding practice, the Army will not proceed with the transaction until it receives a formal response from the House Committee on Armed Services advising the Army that it may proceed with the proposed action.

4. If the Secretary determines that the transaction must be expedited due to war, certain emergencies, or "a contingency operation," advance Congressional notification of the lease is not required. Under those circumstances, however, the Secretary must submit, not later than 30 days after entering into the lease, to the Committees a report on the transaction. DASA(I&H) approval for any contingency leasing of real property must be obtained prior to executing the transaction.

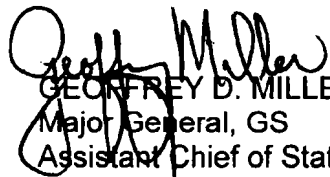
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DAIM-ZA

SUBJECT: Real Property Leases to Secure Temporary Soldier Housing

5. Your active involvement in this process will ensure we comply with the Title 10 U.S.C. 2662 requirements.

6. Point of contact is Colonel Mark Loring, Facilities and Housing Directorate, (703) 604-2430, mark.loring@hqda.army.mil.


GEORFREY D. MILLER
Major General, GS
Assistant Chief of Staff
for Installation Management

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